

Pat Wood, III
Chairman

Judy Walsh
Commissioner

Brett A. Perlman
Commissioner

W. Lane Lanford
Executive Director



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Public Utility Commission of Texas

May 18, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Rm. TW-B-204
Washington, DC 20554

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Re: CC Docket No. 00-65: *Application of SBC Communications Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in Texas*

Dear Ms. Salas:

Enclosed for filing in the above referenced docket are one (1) original and six (6) copies of the Evaluation of the Public Utility Commission of Texas Reply. Also enclosed is a 3.5 inch computer diskette with an electronic copy of the Evaluation in "read-only" format.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Pat Wood, III".
Pat Wood, III
Chairman

Enclosures

cc: Janice Myles, Policy and Program Planning Division, FCC (12 copies)
Donald J. Russell, Department of Justice (1 copy)
ITS, Inc. (1 copy)

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Public Utility Commission of Texas

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Ms. Magalie Roman Salas, Esq.
Secretary Federal Communications Commission
445 Twelfth Street, S. W.
Washington, DC 20554

RE: CC Docket No. 00-65, *Application of SBC Communications, Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in Texas*

Dear Ms. Salas:

As required by Section 271(d)(2)(B) of the Telecommunications Act of 1996, the Public Utility Commission of Texas hereby submits the enclosed Reply Evaluation to Southwestern Bell Telephone Company's April 5, 2000 Section 271 filing for Texas. This document includes attachments that should be considered together with our Evaluation filed in CC Docket No. 00-65 and our Evaluation and Reply Evaluation filed in CC Docket No. 00-04.

We trust you will find our Reply Evaluation helpful and would welcome the opportunity to provide you any additional information. As before, the Public Utility Commission of Texas verifies that Southwestern Bell Telephone Company has fully complied with the requirements of Section 271(c) of the Act, and we strongly recommend this application for your consideration and approval.

Sincerely,

A stylized, handwritten signature of Pat Wood, III.

Pat Wood, III
Chairman

A handwritten signature of Judy Walsh.

Judy Walsh
Commissioner

A handwritten signature of Brett A. Perlman.

Brett A. Perlman
Commissioner

cc: Governor George W. Bush
Lieutenant Governor Rick Perry
Speaker Pete Laney
Senator David Sibley

Representative Steven Wolens
Senator Phil Gramm
Senator Kay Bailey Hutchinson
Texas Delegation, United States House
of Representatives

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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IN THE MATTER OF

APPLICATION OF SBC §
COMMUNICATIONS, INC. PURSUANT §
TO SECTION 271 OF THE §
TELECOMMUNICATIONS ACT OF §
1996 TO PROVIDE IN-REGION, §
INTERLATA SERVICES IN TEXAS §

CC DOCKET NO. 00-65

THE EVALUATION OF
THE PUBLIC UTILITY COMMISSION OF TEXAS
REPLY

PAT WOOD III
CHAIRMAN

JUDY WALSH
COMMISSIONER

BRETT A. PERLMAN
COMMISSIONER

PUBLIC UTILITY COMMISSION
OF TEXAS
1701 N. CONGRESS AVENUE
AUSTIN, TEXAS 78711

MAY 19, 2000

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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IN THE MATTER OF

**APPLICATION OF SBC §
COMMUNICATIONS, INC. PURSUANT §
TO SECTION 271 OF THE §
TELECOMMUNICATIONS ACT OF §
1996 TO PROVIDE IN-REGION, §
INTERLATA SERVICES IN TEXAS §**

CC DOCKET NO. 00-65

**THE EVALUATION OF
THE PUBLIC UTILITY COMMISSION OF TEXAS
REPLY**

**PAT WOOD III
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**BRETT A. PERLMAN
COMMISSIONER**

**PUBLIC UTILITY COMMISSION
OF TEXAS
1701 N. CONGRESS AVENUE
AUSTIN, TEXAS 78711**

MAY 19, 2000

TABLE OF CONTENTS

I.	The Evaluation of the Public Utility Commission of Texas Reply.....	1
II.	Exhibits	
	Workshop Transcript (May 1, 2000).....	Tab 1
	Workshop Transcript (May 2, 2000).....	Tab 2
	Workshop Transcript (May 3, 2000).....	Tab 3
	Workshop Transcript (May 15, 2000).....	Tab 4
	Order No 2, PUCT Docket Nos 22167, 22469.....	Tab 5

**THE EVALUATION OF
THE PUBLIC UTILITY COMMISSION OF TEXAS
REPLY**

In its first Evaluation filed on January 31, 2000, the Texas Commission concluded that Southwestern Bell Telephone Company (SWBT) had opened its local market to competition and had satisfied the comprehensive list of Section 271 criteria for long distance entry. The Texas Commission's recommendation followed a lengthy two-year process. On April 5, 2000, SWBT supplemented its original application on some specific issues in response to concerns raised by various parties, including the Department of Justice (DOJ).

On April 26, 2000, the Texas Commission filed comments again affirming that SWBT has taken the statutorily required steps to open its local exchange and exchange access markets in Texas to competition. In filing its April 26 Evaluation, the Texas Commission stated that it had reexamined the record evidence, analyzed SWBT's supplemental filing, reviewed further performance measurement data, engaged a third party to conduct a review of OSS integration issues, and broadened the scope of previously-scheduled post-271 proceedings into three full-day and one half-day workshops attended by SWBT and a broad range of Texas CLECs to develop a record on these specific issues.

Since filing its Evaluation, the Texas Commission has taken several additional steps to insure that the Texas local market remains open. Texas Commission staff held a series of performance measure workshops in conjunction with the six-month review process described in earlier recommendations. Those workshops took place on May 1, 2, and 3.¹ In the May 3 workshop, Texas Commission staff requested SWBT meet with interested CLECs to work together to come to agreement on performance measure revisions in advance of future workshops. SWBT and many CLECs expressed an interest in doing so. Informal work sessions were held between SWBT and interested CLECs on May 12 and May 18. The Texas Commission has also scheduled additional workshops and informal work sessions to be attended by SWBT and interested CLECs. These are set forth below.

May 25, 2000	Informal SWBT/CLEC teleconference work session on DSL PMs, specifically PMs 14 through 17, 55.1 through 106, 114.1
June 1, 2000	Commission Workshop on xDSL PMs
June 5, 2000	xDSL Working Group meeting to discuss "Project Pronto" and remote terminal issues as they relate to xDSL

¹ *Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas*, PUCT Project No. 20400, Workshop Transcript (May 1, 2000) (attached hereto as Exhibit 1); *Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas*, PUCT Project No. 20400, Workshop Transcript (May 2, 2000) (attached hereto as Exhibit 2); *Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas*, PUCT Project No. 20400, Workshop Transcript (May 3, 2000) (attached hereto as Exhibit 3).

June 6, 2000	Commission Workshop on PMs relating to OSS, change management, billing, trunking and collocation.
June 7, 2000	Informal SWBT/CLEC work session on PMs relating to UNE, UNEP, and resale specials, including those relating to provisioning, maintenance and repair
June 8, 2000	Commission Workshop on PMs relating to wholesale support, LNP, NXX, directory assistance and OS, LIDB, 911, the bona fide request process, and general overview measures and comments
June 9, 2000	Commission Workshop on PMs relating to UNE, UNEP, and resale specials, including those relating to provisioning, maintenance and repair
June 27, 2000	XDSL Working Group meeting

To the extent the performance measurement review is completed at the conclusion of the above referenced workshops, Texas Commission staff will bring any disputed issues to the Texas Commission in late June or early July. The Texas Commission also held the second meeting of the xDSL working group on May 15, 2000.²

The Texas Commission reviewed the comments filed by the Department of Justice and other commenters. Several parties raised issues in their comments regarding line sharing. The Texas Commission has also taken steps to insure that line sharing is available to CLECs pursuant to the *Line Sharing Order* issued by this Commission.³ IP Communications Corp. filed a petition to establish expedited Public Utility Commission oversight concerning line sharing issues on February 25, 2000. Additionally, Covad Communications Co. and Rhythms Links, Inc. filed petitions for arbitration and for post-interconnection dispute resolution regarding rates, terms and conditions for line sharing on April 26, 2000. SWBT initially opposed IP's petition on the grounds that it sought a "generic proceeding" and did not follow the requirements of Section 252(b) of the federal Telecommunications Act. On May 3, 2000 SWBT withdrew its opposition to IP's petition. On May 4, 2000, the Texas Commission-appointed arbitrators held a prehearing conference to address potential consolidation of the two dockets as well as the necessity of interim relief. On May 10, 2000, the arbitrators issued an Order consolidating the two dockets, granting the request for a hearing to determine interim relief, and establishing a procedural schedule.⁴ Pursuant to the arbitrators' Order, the interim relief hearing will be held on May 22 and 23, 2000.

² Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas, PUCT Project No. 20400, and Implementation of Docket Nos. 20226 and 20272, PUCT Project No. 22165, Workshop Transcript (May 15, 2000) (attached hereto as Exhibit 4).

³ Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order, CC Docket No. 98-147, and Fourth Report and Order, CC Docket No. 96-98 (rel. Dec. 9, 1999) ("*Line Sharing Order*").

⁴ Petition of IP Communications, Corp. to Establish Expedited Public Utility Commission of Texas Oversight Concerning Line Sharing Issues; PUCT Docket No. 22167, and Complaint of Covad Communications Co. and Rhythms Links, Inc. against Southwestern Bell Telephone Co. and GTE SW, Inc. for Post-Interconnection Agreement Dispute Resolution and Arbitration under the Telecommunications Act of 1996 Regarding Rates, Terms,

Other than line sharing, the vast majority of comments filed on April 26 relate to the three issues previously addressed by the Texas Commission in its April 26, 2000, Evaluation: OSS integration, provisioning of unbundled loops through the hot cut process, and provisioning of unbundled loops for advanced services. So as not to burden the record, the Texas Commission will not reiterate its comments—though the Texas Commission continues to believe SWBT has established that it has opened the local market to competition and has satisfied the comprehensive Section 271 criteria for long distance entry. Further, the Texas Commission looks forward to reviewing the *ex parte* to be filed by the Department of Justice after April performance data is filed by SWBT and the Texas Commission stands ready to provide additional comments through an *ex parte* filing after reviewing the April data and DOJ's *ex parte*.

Conditions, and Related Arrangements for Line Sharing, PUCT Docket No. 22469, Order No. 2 (May 10, 2000) (attached hereto as Exhibit 5).

WORKSHOP

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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
PUBLIC UTILITY COMMISSION OF TEXAS
AUSTIN, TEXAS

SECTION 271 COMPLIANCE)
MONITORING OF SOUTHWESTERN) PUC PROJECT
BELL TELEPHONE COMPANY) NO. 20400
OF TEXAS)

WORKSHOP

MONDAY, MAY 1, 2000

BE IT REMEMBERED THAT at 10:06 a.m., on

Monday, the 1st day of May 2000, the
above-entitled matter came on for hearing at the
Public Utility Commission of Texas, 1701 North
Congress Avenue, William B. Travis Building,
Hearing Room Gee, Austin, Texas 78701, before
DONNA NELSON, Arbitrator; and the following
proceedings were reported by Janis Simon,
Michelle Bulkley, and Steven Stogel, Certified
Shorthand Reporters of:

1 their hands)
2 MS. NELSON: Okay. Southwestern
3 Bell, do you have copies?
4 MR. HORN: We Can get additional
5 hard copies, yes. Okay. We'll hand them out in
6 just a minute. I heard from Mr. Drummond
7 Friday, and I guess we were able to get that to
8 you electronically?
9 MR. DRUMMOND: Yes.
10 MR. HORN: Great. Thanks.
11 MS. NELSON: Okay. Let's go ahead
12 and get started with the performance remedy plan
13 discussion, and as we indicated on Friday,
14 AT&T's going to make its presentation first on
15 the motion it filed regarding the performance
16 remedy regarding performance.
17 Go ahead, Mr. Cowlshaw.
18 MR. COWLISHAW: Thank you. This
19 is Pat Cowlshaw for AT&T and TCG.
20 MS. NELSON: Well, I guess before
21 we get started, I'm like -- I must be -- my
22 brain is still stuck in that traffic. Let's go
23 ahead and take an appearance for every company
24 who's represented here, and for right now, let's
25 just start with appearances of the attorneys.

Page 2

1 PROCEEDINGS
2 MONDAY, MAY 1, 2000
3 (10:06 a.m.)
4 MS. NELSON: Okay. Let's go on
5 the record in Project No. 20400, Section 271
6 Compliance Monitoring of Southwestern Bell
7 Telephone Company of Texas, Project No. 22165,
8 Implementation of Docket Nos. 20226 and 20272.
9 These are a series of performance
10 measure workshops, and a schedule was sent out
11 last week. And on the schedule for May 1st,
12 today, is the workshop on the performance remedy
13 plan, including AT&T's filings, and also
14 performance measures relating to UNE and UNE-P,
15 including those relating to provisioning
16 maintenance and repair.
17 And, Southwestern Bell, you had a
18 conference call on Thursday -- on Friday.
19 Southwestern Bell has provided a red line
20 version of their performance measures for
21 consideration today and e-mailed those to all
22 the parties. I'm assuming everybody got a copy.
23 Is there anyone who didn't get a
24 copy of the performance measures?
25 (Those so responded by raising

Page 4

1 As people speak, if you would
2 identify yourself for the record, then we'll
3 take appearances as people speak. Let's start
4 with Southwestern Bell.
5 MR. HORN: Tom Horn for
6 Southwestern Bell Telephone Company and Cynthia
7 Malone.
8 MR. COWLISHAW: Pat Cowlshaw and
9 Michelle Bourianoff for AT&T and TCG.
10 MS. HARTLINE: Rina Hartline and
11 Abigail Kramer for Birch Telecom.
12 MS. NELSON: Okay. You're going
13 to need to stand up when you speak, and this
14 room is small. The court reporter needs to be
15 able to hear you.
16 MS. HARTLINE: Rina Hartline and
17 Abigail Kramer for Birch Telecom.
18 MR. WAKEFIELD: Good morning, Your
19 Honor. Jason Wakefield on behalf of MCI
20 WorldCom.
21 MR. DRUMMOND: Eric Drummond on
22 behalf of the CLEC Coalition.
23 MS. NELSON: Okay. And let's go
24 ahead and have the people who are sitting at the
25 table identify themselves at this point, and

Page 5

Page 7

1 then we'll let the audience speak.
2 MR. DYSART: Randy Dysart,
3 Southwestern Bell.
4 MR. LOCUS: John Locus,
5 Southwestern Bell.
6 MR. BERRINGER: John Berringer,
7 Southwestern Bell.
8 MS. EMCH: Marsha Emch, MCI
9 WorldCom.
10 MR. KAGELE: Tim Kagele, Time
11 Warner Telecom.
12 MS. NELSON: And at the break, if
13 you could hand a card to the court reporter, it
14 just makes it easier for them. Okay. And for
15 staff, I'm Donna Nelson.
16 MR. SRINIVASA: I'm Nara
17 Srinivasa.
18 MR. MASON: John Mason.
19 MS. ZACHARIE: Pat Zacharie.
20 MR. DRUMMOND: I heard from -- and
21 I think we may have some other representatives,
22 companies sitting out here today.
23 MS. NELSON: Okay.
24 MR. SIEGEL: Howard Siegel, IP
25 Communications.

1 MS. NELSON: Thank you, and
2 welcome. Mr. Cowlshaw?
3 MR. COWLISHAW: Thank you. Can I
4 ask Your Honor, do you have -- does staff have
5 available a copy of the -- following up on our
6 April 17th session, we filed on April 24th some
7 additional comments regarding continued
8 backsliding in the review of the new 271
9 application?
10 MS. NELSON: Yes.
11 MR. COWLISHAW: I was going to
12 make reference to the attachment that's at the
13 back of that and --
14 MS. NELSON: Yes, we have that
15 available. Well, I guess we could always use
16 extra copies if you have any.
17 MR. COWLISHAW: What I'm going to
18 pass out are actually copies of exhibits or
19 Attachments 2 through 5 from a supplemental
20 declaration of Mike Pfau that was filed last
21 week at the FCC by AT&T, and Attachment 3 -- and
22 I do that because there's some additional
23 information there, but Attachment 3 in what I've
24 just passed out is the same information, the
25 same document that appears as Attachment 1 to

Page 6

Page 8

1 MS. KRABILL: Nancy Krabill,
2 NEXTLINK.
3 MR. SANCHEZ: Claudio Sanchez,
4 Mpower Communications.
5 MS. TAUTE: Barbara Taute with
6 Sprint.
7 MR. SAUDER: T.J. Sauder with
8 Birch Telecom.
9 MS. MATLOCK: Donna Matlock, AT&T.
10 MS. YEE: Grace Yee, AT&T.
11 MS. NELSON: Okay. If you haven't
12 identified yourself, and when you -- if you do
13 speak today, please identify yourself for the
14 record. Okay. And there are some people here
15 from the Oklahoma Commission. If you would go
16 ahead and identify yourselves.
17 MR. DAVIDSON: Joyce Davidson,
18 Deputy Director of Oklahoma Corporation
19 Commission.
20 MS. ANDERSON: Marilyn Anderson,
21 Regulatory Analyst.
22 MR. WILT: Steve Wilt, Public
23 Utility Coordinator.
24 MS. WALKER: Shirley Walker,
25 Regulatory Analyst.

1 AT&T's April 24th backsliding filing with this
2 Commission.
3 In the original filing that AT&T
4 made on this subject back on March 2nd, we
5 focused on the Tier 2 measures as reported by
6 Southwestern Bell, those having been the focus
7 of the MOU test and the measures that the
8 Commission has regarded as most customer
9 affecting, most competition affecting and noted
10 that whereas in the July to September time frame
11 Southwestern Bell had been reporting on its
12 geographically disaggregated measures, its
13 complete set of measures including the
14 geographic disaggregation that it does for most
15 provisioning and maintenance measures.
16 But Southwestern Bell had been
17 reporting in the July to September time frame
18 last year in the high 80s by way of a Tier 2
19 pass rate. It was reporting meeting the Z test
20 that had been defined by the Commission in the
21 high 80s, 88 percent or so back in July/August
22 time frame. And that had fallen into the low
23 80s in more recent months and is the time of our
24 original filing, the most recent month that we
25 had available was January when Southwestern Bell

Page 9

Page 11

1 reported that it passed 82.9 percent of its
2 Tier 2 measures in its geographically
3 disaggregated reporting which is the official
4 format in which the data is reported.
5 The follow-up that we filed on
6 April 24th and the data that is reflected in
7 Attachment 3 of the document I've passed out
8 this morning shows that on -- again, on a
9 geographically disaggregated basis the Tier 2
10 measures Southwestern Bell reported in February
11 passing 81.0 percent of those measures. So we
12 are now missing 19 percent, were failing the Z
13 test either on a benchmark or a parity basis as
14 this Commission has set the Z test.
15 This data, I should point out, at
16 the time we had to make this filing, we did not
17 have a hit or miss report available from
18 Southwestern Bell, have not seen a hit or miss
19 report actually through -- for the month of
20 February. And this data was created by taking
21 the posted Web site data, transferring it
22 manually onto a spreadsheet, and then
23 counting -- calculated the number of passes and
24 the number of Tier 2 Z scores.
25 Southwestern Bell has since put

1 customer in competition affecting measures.
2 When -- of course, the other way that it has
3 been discussed to apply that test is to look at
4 each measurement and ask that it pass two out of
5 three months, and if it did, then it gets a yes.
6 And if it didn't, it gets a no, and then add up
7 all the yeses and nos and see what percentage of
8 yeses exist.
9 And you'll recall back in the time
10 of the staff evaluation in the beginning of
11 November, even back then doing the report that
12 way, Southwestern Bell -- I mean, there was one
13 juncture at which the data, if you looked at it
14 that way, Southwestern Bell reported just over
15 90 percent. Of course, staff's recommendation
16 back then was you should look at it the other
17 way, that issue was never resolved by the
18 Commission.
19 Today, if we look at this data
20 through February, even if we apply the
21 Southwestern Bell version of the two out of
22 three month test, for the two out of three
23 months ending February 2000, that test yielded
24 under the Southwestern Bell methodology an 84.8
25 percent pass rate.

Page 10

Page 12

1 out a hit or miss report through March, and they
2 come up with an 81 -- where I am reporting 81
3 percent here for Tier 2 February pass rate,
4 Southwestern Bell reports an 81.3 percent pass
5 rate. So it's -- there's some Z scores in their
6 hit or miss report that don't seem to appear in
7 the reported data, but there's not a material
8 difference. Again, very low 80s through
9 February.
10 There is the test you-all will
11 recall debating last fall how to apply the 90
12 percent test for two out of three months that
13 had been incorporated in the MOU. And
14 obviously, looking at this data that's in front
15 of us, if we're just looking at single month
16 pass rates, it obviously remains the case that
17 Southwestern Bell has never achieved a 90
18 percent pass rate for a month on Tier 2 measures
19 and through February had, in fact, declined the
20 81 percent level.
21 And, indeed, when you look at the
22 data on a statewide basis for the last four
23 months has been reporting missing 20 percent of
24 these measures, missing one out of every five of
25 what the Commission has called the most critical

1 So where we find ourselves is that
2 we have had looking at -- whether we look at
3 monthly pass rates or whether we look at the two
4 out of three months doing the so-called
5 horizontal calculation that Southwestern Bell
6 had proposed, we look at the month ending
7 January. That two out of three month
8 calculation for Tier 2 measures was 85.3
9 percent. Again, the two out of three months
10 ending February was 84.8 percent.
11 We're now not close to 90 percent.
12 We're below or around the 85 percent vicinity.
13 We have had since we last met March data
14 reported by Southwestern Bell. I suspect that
15 Southwestern Bell will want to talk about their
16 March data and points of improvement in the
17 March data. They did file, as I mentioned, a
18 hit or miss report at the FCC containing their
19 March data on whatever day Good Friday afternoon
20 was.
21 That data will show better
22 percentages for Southwestern Bell than the
23 February data did. It's probably appropriate to
24 recognize that in all of these discussions,
25 we're leaving aside very substantial

Page 13

1 disagreements between the companies regarding
2 the reliability of this data, and we're simply
3 taking it at face value. But leaving it aside,
4 what Southwestern Bell reported for March was a
5 Tier 2 pass rate, geographically disaggregated
6 of 85 percent, 85.0. And what they reported for
7 the two out of three month calculation doing it
8 the Southwestern Bell way, the horizontal way,
9 is 85.8 percent for the three months ending
10 March.

11 Both of those numbers, while
12 better numbers than February, leave us not only
13 below the 90 percent that the Commission had set
14 as the objective test of the appropriate
15 performance, but neither of those numbers return
16 yet to the levels that Southwestern Bell was
17 reporting in September and October of 1999 and
18 in the summer months before that. So the --
19 just a couple other observations about that data
20 is presented here in this attachment. Sometimes
21 we get into the business of talking about more
22 than the Tier 2 measures, looking across all the
23 measures.

24 What's of some interest looking
25 here, AT&T broke out the Tier 1 -- those Tier 1

Page 14

1 measures that are not Tier 2 measures. Many of
2 them are both, but these are the Tier 1s that
3 are Tier 1 only. And then the diagnostic
4 measures in these last two frames, and what you
5 see if you compare, for example, the
6 two-out-of-three-month column, for the months
7 ending February, where the Tier 2 pass rate for
8 two out of three months was just under 85
9 percent, it would be 84.8. If we look down at
10 Tier 1 only, it's 91.7 percent, and the
11 diagnostic measures, a 96.7 percent pass rate.

12 Well, the diagnostic measures are
13 the measures that Southwestern Bell and other
14 contacts has characterized as redundant of
15 performance on other measures and as performance
16 that shouldn't be counted for penalty purposes,
17 and you can see the difficulty of looking at an
18 all-measure average that includes a very high
19 pass rate on diagnostic measures that have been
20 set up to collect some additional data for
21 informational purposes but the main fact be
22 redundant of other performance. The measures
23 that Southwestern Bell continues to have these
24 Tier 2 violations on are not trivial measures.

25 If we -- on the -- just to take an

Page 15

1 example, performance measures, we now have
2 between three and five of the last five months
3 reporting statewide violations for 8dB loops on
4 PM 59; the I-report measures, PM 58, the missed
5 due date measure; and PM 65, the trouble report
6 rate measure. That's statewide parity
7 violations, 8dB loops in all those three
8 categories, provisioning troubles, missed due
9 dates, and trouble report rates, maintenance
10 trouble. So these are not -- I mean, nothing in
11 Tier 2 is trivial in the first place. That's
12 the whole reason that the measures got
13 classified by the Commission as to be in Tier 2.

14 And what we see is, as of
15 February, as of March, Southwestern Bell
16 continues to be well below on its Tier 2
17 measures, the objective test that the Commission
18 set for it and well below on a monthly rate
19 however you look at the test, whichever one of
20 the varying interpretations one might -- where
21 does that -- where does that leave us? And
22 where does that leave us specifically in terms
23 of the remedy plan?

24 And it's AT&T's suggestion first
25 that it would be appropriate for the Commission

Page 16

1 at this juncture with a new application pending
2 to hold Southwestern Bell to the MOU
3 two-out-of-three-month test that was the
4 commitment negotiated by the Commission with
5 Southwestern Bell in the memorandum of
6 understanding. And we would hope you would take
7 that request and consider it and apply it in
8 further consideration of Southwestern Bell's new
9 pending 271 application. We think that's an
10 action that's required under the MOU and would
11 be appropriate for the Commission to take.

12 They're just not passing the test
13 that was set to gain your approval. To try and
14 look at it, again -- and frankly if that's not
15 done, I think AT&T at least is doubtful whether
16 any after-the-fact remedy plan is likely to be
17 of effective short or long run if we begin the
18 process by simply looking away from, rather than
19 holding Southwestern Bell to the one objective
20 performance test that was set in the MOU. But
21 if we go to the remedy plan, what we see is that
22 under the T2A Southwestern Bell is reporting
23 its -- it's supposed to report its aggregate
24 Tier 1/Tier 2 payments on the Web site. And for
25 the month of January and for the month of

Page 17

1 February, Southwestern Bell reported paying
2 Tier 2 penalties. Payments based on January
3 performance were in the -- approximately
4 \$460,000. The payments for performance through
5 February were, again, over \$400,000.

6 There's a -- when Bell first
7 reported these payments, there was a \$75,000
8 payment noted for December in the -- when the
9 table was updated to add the February payment,
10 the December payment disappeared, and n/a was
11 written in its place. And so we don't know what
12 the reason for that is, but one way or the
13 other, there's been either close to 900,000 or
14 960,000 in Tier 2 payments by Southwestern Bell
15 based on its performance to date.

16 We have questions that we would
17 like hopefully this forum to explore. These
18 were the first Tier 2 payments made, and whereas
19 we had at least a pass by Telcordia at looking
20 at -- not real data but some aggregate data and
21 a hypothetical calculation of Tier 1 damages in
22 one of their supplemental reports last year,
23 we've had no examination of how the Tier 2
24 payments are being calculated. And so when we
25 see this 460- and the \$400,000 payment, I think

Page 18

1 this would be valuable for the Commission and
2 for all the participants in this process to have
3 an understanding of how that's being calculated.

4 Through January there were some 20
5 Tier 2 measures that had been in violation for
6 three consecutive months. Did the 460,000.
7 They got paid in January. Did that -- was that
8 a payment for all 20 of those mismeasures? Were
9 there some measures that Southwestern Bell
10 thought it was inappropriate for them to have to
11 pay, and so we're only seeing a part? But it
12 would be very useful in terms of understanding
13 the operation of the remedy plan to know how the
14 penalties that have been paid to date were, in
15 fact, calculated with reference to particular
16 performance measure violations and answering
17 what happened about 75,000.

18 When we look at the Tier 1 column,
19 at the same time, over the same period of time
20 that Southwestern Bell has now reported in the
21 vicinity of 900,000 in Tier 2 payments, they've
22 reported a total Tier 1 damages payments of
23 \$13,000. And for the time period ending in
24 January, at the same time that they had paid
25 460,000 in Tier 2 payments to the state for

Page 19

1 chronic violations to the industry as a whole,
2 the payments to CLECs under Tier 1 for that same
3 period of time were \$3,250.

4 And so we're seeing very, very
5 small Tier 1 damages being paid. At the same
6 time, Southwestern Bell is incurring what --
7 much more substantial Tier 2 penalties. The way
8 the remedy plan was set up, the Tier 1 penalty,
9 the Tier 1 damages happened immediately, first
10 month of violation to a CLEC. The Tier 1
11 damages escalate with succeeding months'
12 violations. The Tier 2 do not. There's no
13 escalation in Tier 2.

14 So what one would have expected
15 was the -- a build up in Tier 1 payments if
16 there was problem performance, some expectation
17 maybe that the Tier 1 payments would remedy the
18 situation, the performance problem would go
19 away. And only when a problem got big and the
20 Tier 1 payments weren't adequate to stop it,
21 would we see the so-called super penalty of
22 Tier 2 kick in. And what we're seeing is kind
23 of a flip-flop. That leads us to make a couple
24 of -- oh, I'm sorry.

25 MS. NELSON: Wasn't that -- the

Page 20

1 way you've outlined the performance remedy plan,
2 wasn't that based on the vast majority of CLECs
3 with heavy volume, having their performance
4 captured under the T2A and both Tier 1 and
5 Tier 2?

6 MR. COWLISHAW: Well, it
7 certainly -- I mean, I don't know whether
8 Southwestern Bell is reporting in Tier 1
9 liquidated damages that it's paying -- if there
10 are liquidated damages that it's paying under
11 agreements other than the Tier -- the T2A. But
12 certainly one possible explanation for some
13 amount of discrepancy is that you have
14 performance still going on for parties who are
15 not under Attachment 17 of the T2A, and so
16 they're not in Tier 1, if that's the way that's
17 being reported. And, yet, their performance is
18 being captured under Tier 2 because that was --
19 because that's part of the remedy plan that all
20 CLECs performing should be capturing under Tier
21 2, whether they're in Tier 1 -- in T2A or not
22 with that very limited exception that I don't
23 think there are any applications of yet.

24 So -- but with the numbers that
25 have been reported of parties -- CLECs opting

Page 21

Page 23

1 into the T2A and opting into it back in the
2 October -- even the October time frame right
3 after the October 13th approval, it is at least
4 surprising that we're not seeing -- or at least
5 would be something that I would think that the
6 Commission would want to look at to see, "Is
7 that the explanation?" If that's the
8 explanation, that 100 percent of these penalties
9 or damages or performance that's caused in the
10 Tier 2, is caused by parties that are out of the
11 T2A, and that's why there's no Tier 1. Well,
12 that's an explanation. But with more and more
13 parties in the T2A, we would expect the pattern
14 to be more, I think as I described in the T2 --
15 the Tier 2 would be the last resort penalty.
16 And you would be concerned if the Tier 1s were
17 not being paid.

18 Other problems that may be causing
19 the Tier 1, and it's led to some of our
20 recommendations on the remedy plan, are simply,
21 one, when you look at the -- on CLEC's
22 performance reports, many of them we're not
23 seeing a Z score calculated when the data points
24 are below 10. Sometimes I think that happens
25 for some people still below 30, but certainly

1 know, for Southwestern Bell -- when we're
2 looking at -- we have -- I think Tier 1 payments
3 one month totaled \$450. I mean, it's hard to
4 imagine that having an impact. It's hard to
5 imagine that even justifying the effort that
6 went into Southwestern Bell figuring out paying
7 it, and to have a liquidated damages plan that
8 will, in fact, operate as a first line of
9 defense against backsliding, we have made a
10 recommendation. There's certainly various
11 approaches you could take to coming up with a
12 number, but we have made a recommendation that
13 the Commission establish in and see if we can
14 bring Southwestern Bell into agreement on
15 setting a minimum Tier 1 damages per measurement
16 quantity that would have a more meaningful
17 immediate impact.

18 The experience under Tier 2 makes
19 one think that it may be important to, in fact,
20 put some escalation into Tier 2 for here -- for
21 there has been none. What we see is 460,000 one
22 month, 400,000 the next month. That's a -- you
23 know, presumably a level of damages that
24 Southwestern Bell wouldn't want to sustain, but
25 relative to what's at stake in these markets, it

Page 22

Page 24

1 below 10.

2 The remedy plan provides that
3 damages may be payable on transaction volumes
4 below 10, and so a question is: How is
5 Southwestern Bell applying the remedy plan at
6 present to transaction -- to CLECs who are
7 having transaction volumes below 10? Is there a
8 performance that when built up into the
9 aggregate is resulting in these Tier 2 payments
10 but which is not resulting in Tier 1 payments
11 because, for whatever reason, that mechanism is
12 not engaging or not appropriately engaging to
13 result in the Tier 1 damages on the very small
14 volumes.

15 We have recommended not only based
16 on this data that we're looking at here but out
17 of concerns that go back into the fall, and the
18 questions that the FCC originally had about the
19 nascent competition and the small volume of
20 CLECs and the CLECs who are in an entry mode on
21 a particular service, which may be in small
22 volumes for a while, that one way to try and
23 improve this plan would be to set some sort of
24 minimum per measure -- per measurement
25 liquidated damage level. The amount of -- you

1 remains a very, very minor amount. And to have
2 the possibility of chronic industry-wide parity
3 violations, benchmark violations persist with no
4 change in the monetary sanction I think raises a
5 concern that we do need some escalation there.
6 I guess a final thought I would throw out is, we
7 have found -- AT&T has in its -- and this is old
8 and I hope not a sore subject -- in our
9 contract, a remedial plan obligation with
10 Southwestern Bell, various kinds of performance
11 trigger a remedial plan obligation.

12 That's something that got dropped
13 out of the remedy plan in the process of
14 creating the T2A, and it remains our view that
15 it is useful. And the remedial plans that
16 Southwestern Bell puts together are not big
17 elaborate documents. They're one-page forms
18 that reflect the work they've done to try and
19 ascertain what the cause of the problem was and
20 at least for measures that fall into a Tier 2
21 penalty level or maybe a Tier 1 damages where it
22 runs for two months and the Tier 1 damage the
23 first month didn't take care of it, would be
24 valuable for the Commission to reconsider.
25 Having a remedial plan obligation at least

Page 25

1 causes Southwestern Bell to communicate with a
2 CLEC a finding as to what this problem is or in
3 case of Tier 2 with the CLEC community and with
4 the staff what the problem is and, okay. They
5 work on that, and either it fixes the problem or
6 it doesn't, or it gives us something to hold
7 against them. "Okay. You said this was the
8 problem. Have you fixed that problem yet?"

9 And so in terms of getting what
10 this ought to all be about, performance not
11 penalties, some reconsideration of the remedial
12 plan would in our view be appropriate. I would
13 say that, you know, when AT&T is confronted with
14 this question now in other venues, it's giving
15 consideration to a wholesale different approach
16 than the per occurrence approach that we've
17 worked into in Texas.

18 But given the plan that we're here
19 with and given the remedy plan that we've
20 developed, the Commission has developed in
21 Texas, the kind of changes that I've outlined
22 are recommendations that we think would help us
23 have a better chance at getting some impact out
24 of the remedy plan.

25 MR. SRINIVASA: Let me understand

Page 26

1 something. When you state the remedial plan,
2 are you referring to route cause analysis? Say,
3 for example, damages that occurred for two
4 consecutive months going in and finding out why
5 that happened, establishing the root cause?

6 MR. COWLISHAW: Yeah. I think
7 it's probably the same term. Randy can speak to
8 it in the -- the name that it's given in the
9 AT&T agreement is remedial plan. It's a
10 document that displays the results on the
11 measure that created the violation that
12 triggered the obligation to report something,
13 and a brief statement of what Southwestern Bell
14 found the route cause to be of the problem or it
15 didn't find any cause and what action is either
16 proposed to be taken on what schedule or has
17 already been taken to address it.

18 MS. NELSON: Okay. I had
19 originally anticipated having all CLECs present
20 at this point, which I'm still willing to do,
21 but I guess I would like to hear Southwestern
22 Bell's response. And I think that might get the
23 ball moving forward a little more quickly, and
24 then other CLECs can pitch in and give their
25 viewpoint, too. Mr. Horn?

Page 27

1 MR. HORN: Thank you. I just
2 wanted to start off with a few comments. And
3 then with respect to some of the specifics of,
4 of course, Mr. Dysart, and we have Mr. Locus who
5 is better to be -- more qualified. I would like
6 to put try to put in context what the view
7 review of the remedy plan is really all about,
8 what was contemplated by the T2A, what was
9 contemplated by the MOU in this respect. And in
10 Attachment 17, specifically, Section 6.4, 6.5,
11 and 6.6, it's outlined there what is to take
12 place, what the expectations are in the
13 six-month review, and that's what we're really
14 all about right now and will be over the next
15 several days.

16 Let's be mindful that the MOU was
17 adopted back in April, and we're already a year
18 past that. There were -- we were trying to
19 capture things in that MOU in terms of trying to
20 determine when we have a meaningful opportunity
21 to compete, when is the marketplace open, what
22 kind of assessments will we be able to make?
23 And certainly that's how the 90 percent test, as
24 it's been referred to, was included in the MOU
25 at that time. Do we have additional indicators

Page 28

1 since that time? Yes, that's what this
2 Commission's been all about in the -- in its
3 constant assessment -- assessment and
4 reassessment of Southwestern Bell's opening of
5 the local marketplace. And it's been most
6 recently from affirmed in the comments that were
7 filed by this Commission on the 26th, as
8 approved by the Commissioners themselves on the
9 24th and the statements that they made in
10 support of that finding and determination.

11 Certainly, AT&T's filings were
12 made prior to that time. Really what review
13 we're about now is to add, delete, or modify
14 whether applicable benchmark standards should be
15 modified or replaced by parity standards and
16 whether to move a classification of a measure to
17 high, medium, low, or diagnostic, whether Tier 1
18 or Tier 2.

19 The suggestions that I've heard
20 from AT&T, I don't see that those are included
21 within what we're about here in the six-month
22 review. Does that mean that they don't have
23 value? I don't know at this point. Does that
24 mean that Southwestern Bell won't discuss the
25 merits of the proposals? No, that's not true.

Page 29

1 There's a provision later in that
2 same paragraph of the T2A that talks about any
3 changes to existing performance measurements in
4 this remedy plan shall be by mutual agreement of
5 the parties, and if necessary, with respect to
6 new measures and their appropriate
7 classification by arbitration. But, again, a
8 strict reading of that would say that these
9 proposals that we've just heard of are not
10 contemplated within the T2A, and then, it -- you
11 know, the T2A goes on to talk about that no
12 later than two years after Southwestern Bell
13 receives 271 relief that the intention is to
14 reduce the number of measurements by 50 percent
15 so that understandably, that's not what we're
16 about here today.

17 But what we will be doing over the
18 next several days is giving a hard, focused look
19 at these measurements and not looking at a gross
20 percentage number as to whether or not
21 Southwestern Bell has succeeded or failed in
22 opening the local market but doing as this
23 Commission and its staff has done already, and
24 that is to look beyond the percentages, look
25 beyond the numbers, and look at the data itself,

Page 30

1 and look at the amount of disaggregation and
2 then determine really what kind of performance
3 has Southwestern Bell been providing? Now --

4 And let me also put in context that
5 these other gentlemen from Southwestern Bell
6 wouldn't talk about this, but I've got to
7 recognize that AT&T, who has been the most
8 outspoken party during this entire process, and
9 has been brokering this issue on behalf of
10 itself and others, is not a party. And
11 Commission has just recognized that this
12 morning. It is not a party to the T2A, and the
13 T2A has been out there since last October of
14 last year. And, yes, we understand that in
15 AT&T's April 17th filing and its arbitration
16 proceeding that it does intend and contemplate
17 to take Attachment 17 with changes that would
18 come out of this collaborative -- this workshop.

19 But, for now, AT&T simply is not a
20 party to it. But, again, let's be appreciative
21 of that and understand that with respect to the
22 percentages what we're looking at, the numbers
23 that we're looking at, and the positions of AT&T
24 with respect to what its interest may be in
25 developing Attachment 17 and imposing

Page 31

1 Southwestern Bell's 271 entry.
2 Let me let Mr. Dysart and
3 Mr. Berringer talk about both this concept of
4 backsliding. Let's put that in context.
5 They're also prepared to talk about the improved
6 large results and to talk about the integrity of
7 our data, as well as to talk about the
8 operations and the significant resources that
9 Southwestern Bell has put to bear over the last
10 year since the MOU was originally adopted to
11 permitting an open and competitive market.

12 MR. DYSART: This is Randy Dysart,
13 Southwestern Bell. After the last meeting,
14 Mr. Cowlshaw promised that I missed a good
15 presentation, and I would just like for him to
16 know that I've been waiting with baited breath
17 for this moment.

18 (Laughter)

19 MR. DYSART: I really kind of
20 don't know where to start. So I thought a lot
21 about this issue of backsliding and what it
22 really means to backslide. So I opened up my
23 friend, Mr. Webster, and took a look at it, and
24 it had a lot of religious implications. And I
25 don't think that's what we're talking about

Page 32

1 here, although we might have a better agreement
2 on it if we did.

3 But I guess reading the definition
4 it talked about morals and such, and I want to
5 relate that to -- in the process we're in is a
6 commitment, I think, and I guess when it says
7 that Southwestern Bell is backsliding, to me
8 what they're saying is that we lack the
9 commitment to provide the CLECs an opportunity
10 to compete and have slid backwards in that and
11 have regressed. And I don't believe that is
12 true. I think from what you can see in the room
13 today, if you look around, you see a lot of
14 Southwestern Bell people. In fact, one might
15 have thought we tried to dominate the room so no
16 other opposition could appear here today, and
17 that's really not the case. But I think it
18 reflects the commitment that Southwestern Bell
19 has to provide -- to bring to this table the
20 resources to talk about these measurements and
21 to get these measurements right, to consider the
22 information and the recommendations that the
23 CLECs have made, and also to try to refine these
24 to get these measurements correct so that we
25 have a good set going forward.

Page 33

1 And I believe that's commitment.
2 We also have plans, and currently have added
3 over 200 LOC reps in the month of March. We
4 have plans to add 310 more by the end of year.
5 That's commitment to the process. In addition,
6 there's going to be 28 additional first-line
7 supervisors added to -- for various things, and
8 two area managers. And, I believe, again, that
9 reflects the commitment that Southwestern Bell
10 has to this process. So I don't believe that is
11 backsliding.
12 Just in the performance
13 measurements group, which started, gosh, back
14 when Mr. Cowlishaw and I were doing the
15 mega-arbitration, whether it was just me, we're
16 adding 20 additional people that will over --
17 approximately double the resources we have
18 dedicated just to performance measurements and
19 to trying to isolate these significant issues.
20 And I believe that reflects commitment.
21 In addition, early in the year,
22 although we have continually been trying to
23 improve the processes and look at things, we
24 formed a process improvement team. Now, it's
25 not called the PIT team, as we so often come up

Page 34

1 with acronyms, but these guys are made up of LOC
2 representatives, operations representatives, we
3 have performance measurement people on there.
4 And their goal is to take these troublesome
5 areas that we've seen that we've missed three
6 consecutive months, the Tier 2 particularly, and
7 try to figure out the problem and get those
8 problems corrected. And I think you can see a
9 lot of the results of that commitment and that
10 time on March data.
11 I think it's also important to
12 note what the purpose of the PMs are. I see PMs
13 as two-fold basically. It's a tool to assess
14 our performance obviously. It's also a tool for
15 improvement, and that's what we're using it for.
16 It can't be used solely to say, "Yes, you're
17 performing. No, you're not." You have to dig
18 deeper into the underlying data. You have to
19 recognize and get your hands dirty and get dirty
20 in the data to see what this is going on.
21 And AT&T's presentation, although
22 I can't argue with the numbers, it's not down
23 and dirty into the data, to look behind the data
24 to see what is causing those issues. You know,
25 we talk a lot about Z test and Z statics because

Page 35

1 that's what all the -- whether we met or didn't
2 meet. That's what it's all about. And
3 statistics is a wonderful tool to use, but it
4 doesn't tell the whole story. It's not an exact
5 science.
6 Read a statics book and it talks
7 about probabilities; it talks about air rates;
8 it talks about conditions, assumptions you have
9 to make for these things to be true. So it's
10 not an exact science. You have to look beyond
11 that. You have to make sure assumptions are
12 correct. You have to make sure that we're
13 comparing apples to apples.
14 You know, a lot's been talked
15 about this morning about 90 percent, and that's
16 the bogey that we committed to in the MOU. And,
17 again, I can't deny any of that that AT&T has
18 presented. However, I think it's important that
19 we look at the history of the 90 percent and
20 where that came from. I don't know the exact
21 date, but sometime in the spring of 1999, we
22 were talking about an MOU, we were talking about
23 getting ready to file. We just finished the
24 collaborative process which took several months
25 to complete, and we came up with a 90 percent.

Page 36

1 Now, there's a couple of key
2 things that should be noted about that 90
3 percent. At that time, DSL was really not a
4 factor. In fact, there was a provision MOU that
5 DSL measurements would be set 30 days after the
6 arbitration was completed, and I believe it was
7 the Covad/Rhythms arbitration. And that didn't
8 happen until later in the year. So that's a new
9 service.
10 We also had IDSL was not really
11 used significantly over BRI loops, which is
12 another problem area that we had. So taking
13 into consideration IDSL and DSL that had not
14 been not necessarily contemplated, because if
15 you recall throughout the proceedings, you know,
16 we had a party. And there was no data CLECS
17 there to talk about DSL. I don't believe that
18 they weren't invited, but they just weren't
19 there.
20 So we had limited expertise on
21 those products at the time we were developing
22 these performance measurements, as was very well
23 recognized in the MOU. A couple of problems
24 that we recognize at least out of the last
25 session we had I guess April 13th, the impact of

Page 37

1 line sharing for DSL. Currently, Southwestern
2 Bell utilizes line sharing. At this point the
3 CLECs don't, but as of May they will have that
4 opportunity.

5 So it's not really an apples to
6 apples comparison. You look at one of our
7 biggest problems that we have, missed due dates
8 due to lack of facilities. Over 60 percent of
9 our missed due dates are due to that, that fact.
10 So in a line stream environment for the CLECs
11 that use line sharing, that won't be a huge
12 issue for them, and it was my understanding that
13 at the last DSL workshop just the other day that
14 it was confirmed that CLECs intended to use
15 significant amounts of line sharing on that.

16 And those were issues that the
17 data CLECs brought at our last session which
18 indicates the difference that we have currently,
19 and that's a big issue that goes into this 90
20 percent. Also, IDSL, back when we initially
21 looked at the system. The ISDN for a BRI loop
22 back in the mega-arb and 1997, that wasn't
23 contemplated, and that's what the current
24 business rules and performance is based on is
25 that mega-arbitration. And if you go a little

Page 38

1 deeper, go to the performance looking behind the
2 numbers, you'll find that for Southwestern Bell,
3 provisioning and BRI service, it takes
4 approximately 8.75 to 8.85 days to compare the
5 provision of a CLEC that's 5.6 days. One would
6 think 1.25 days quicker, it's obviously Tier 1
7 when you look at that particular time, business
8 rules for that, the CLEC can ask for a three day
9 interval. Three day interval compared to
10 Southwestern Bell's five to ten day interval
11 that we offer, it's not surprising that we have
12 no way of meeting that 20/10 percent within
13 three days nor missed due dates.

14 In addition, the use of IDSL over
15 the -- tend to cause a trouble report. So I
16 think that's reflected in our trouble report
17 rate. It's a new service, and it's over using
18 an older technology like ISDN.

19 Now, if you take that into
20 consideration -- and let's just look at February
21 data, for example. If you take that into
22 consideration, and let's assume for a minute
23 that we go back to the days of the old MOU,
24 which doesn't seem like a long time ago, but in
25 today's technology, six months can be six years,

Page 39

1 we look at February data. If we take out DSL
2 measures, IDSL measures and the current measures
3 that we have for 114.1, which are counted in
4 some of Southwestern Bell's data as being a Tier
5 2, you take those out for February leaving two
6 out of three, Southwestern Bell actually for the
7 market area was 90.6 percent.

8 You do that same calculation for
9 March for performance improved, it's 91.5
10 percent. That's meeting two out of three
11 months. So I think that's important to note
12 that backsliding is going back on some agreement
13 you had previously. And these issues weren't an
14 issue at that time.

15 MR. SRINIVASA: You say that the
16 90.6 percent, is that on a disaggregated basis
17 or is it statewide?

18 MR. DYSART: It's on the
19 disaggregated basis.

20 MR. SRINIVASA: If you aggregate
21 it Texas statewide?

22 MR. DYSART: I believe if you
23 aggregate Texas statewide for February, it's
24 around 87 percent, and for March it's around 90
25 percent even.

Page 40

1 MR. SRINIVASA: But the DSL and
2 IDSL --

3 MR. DYSART: Out. Now, you know,
4 I'd like to highlight some positives of the
5 March performance that I think indicates that
6 Southwestern Bell obviously is not backsliding.
7 We have shown significant improvements in
8 several categories. This is on aggregate data,
9 by the way. Measurement 5-06, file switch
10 board, we improve. We're at 94.7 percent in
11 March and improve from 75.9 percent in February.
12 7.01 LEX mechanized completions, 95.5 percent
13 which improved from 92.9 percent. And just a
14 note, EDI is much higher than that. It's like
15 97.7 percent in March.

16 Billing completeness, a measure
17 which we have always felt we've provided very
18 good performance but sample sizes were so large
19 that the Z static becomes so sensitive for you
20 statisticians out there, that it's hard --
21 difficult to me, but we met that this month, 99
22 percent improved from 98.3 percent.

23 Flex flow through, which has been
24 an issue, we improved to 91.7 percent from 873
25 percent. I-10s and 3512 for UNI combinations,

Page 41

1 no field work. We were at 1.2 percent, improved
2 from 1.5 percent. And this is the one I'm most
3 proud of, I think, for the group that are
4 sitting here next to me that just really shows
5 the impact of the process improvement team. PM
6 58-09, DSL, percent of missed due dates, 7.7
7 percent improvement -- or 7.7 percent improved
8 from 16 percent in February.

9 Now, this is in -- still
10 considering that we had most of our missed due
11 dates were due to a lack of facilities. This
12 group, I have to highlight that what they have
13 done because I think it's significant. They
14 implemented a process where they go out a day
15 early, which is not what we do in retail, and
16 verify that they have working facilities there.
17 If there's a problem with those facilities, they
18 get those facilities fixed, and we can meet the
19 due date.

20 It doesn't seem like much, but
21 it's made a significant impact. The ones we
22 missed due to facilities, is simply there are
23 not any facilities, or there's a much more
24 significant problem that can't be fixed in one
25 day. There's other issues that although we've

Page 42

1 missed -- still miss the performance or we've
2 missed the parity requirement, performance is
3 still very good. 58-02 for missed due dates for
4 8dB loops, no field work, there was only 1.3
5 percent.

6 MR. SRINIVASA: What is no field
7 work? Field work, you're meaning parity. It's
8 an unbundled loop. One would think that once
9 the field work is --

10 MR. DYSART: Well, no. Field work
11 indicates there was probably central office work
12 there, not outside work.

13 MR. SRINIVASA: Okay. So there
14 were no facilities at the central office.

15 MR. DYSART: Well, or it just took
16 a little longer to do, or there might not have
17 been facilities. I'm not sure of all the
18 details, but typically I think no field work in
19 this case would be central office work.

20 The trouble report rate on 6. -- 65-02
21 was 1.8 percent. So that's still a good
22 performance, but those reflected out of parity.
23 The couple that we've missed but still showed
24 significant improvements: 59-08, I-30 reports
25 on DSL. It was 6.8 percent in March and

Page 43

1 improved from 8.7 percent in February, and it
2 improved, I believe, from around 9 percent in
3 January. So we showed consistent improvement on
4 that measure with increased -- consistently
5 increasing volumes.

6 So I think from the performance data in
7 March, it's a clear indication that Southwestern
8 Bell is not backsliding. We've committed
9 resources. And I think the key here is
10 commitment. We've committed the resources.
11 We've committed the people to do the
12 improvements, and performance is getting better.
13 And if you take into consideration what was
14 agreed to in the MOU back in early spring of
15 1999, you'll find that in reality we probably
16 are meeting that commitment that we made at that
17 point. New things come up. Things happen.

18 MR. SRINIVASA: PM 59, you said
19 trouble reports. In the event that trouble is
20 not found, you're not taking that away from this
21 count. You're still including that in the
22 trouble report? You know, that you dispatched
23 somebody to find out there's trouble -- if
24 there's no trouble found, and once it got
25 reported, you're counted that.

Page 44

1 MR. DYSART: We counted -- if it's
2 coded a "no trouble found" on our network, then
3 it's included, I believe.

4 MR. SRINIVASA: But it's included
5 in the count --

6 MR. DYSART: Correct.

7 MR. SRINIVASA: -- as a trouble
8 report. It means it shows you as an -- it's in
9 the worse category of performance. Even though
10 there was no trouble found, you're taking a hit
11 for that.

12 MS. NELSON: It's not being
13 excluded, I think is what Mr. Srinivasa is
14 saying.

15 MR. LOCUS: This is John Locus
16 with Southwestern Bell. As Randy has stated, if
17 there's a case of no trouble found in our
18 network, those are counted in the 59 measures,
19 as well as the other trouble report measures.
20 If, however, we're able to isolate the trouble
21 outside of our network or prove that there is no
22 trouble in our network, out network tested okay,
23 but yet we dispatched, we found no trouble, in
24 many cases, those are being coded to a CLEC code
25 that would not be included in the trouble

Page 45

1 reports.
2 MR. SRINIVASA: For example, an
3 I-30 report for BRI loops, say if they're using
4 it for the IDSL because of some problems with
5 certain brands of equipment, they're not able to
6 do it, and they state that there's a trouble,
7 you are still counting that as a trouble report
8 within (inaudible), you're not excluding that?
9 MR. LOCUS: This is John Locus
10 with Southwestern Bell. I think it would depend
11 on the case of trouble. If we find -- if a
12 trouble is tested in our network and we dispatch
13 a technician, whether or not we find trouble
14 eventually, we may charge that to Southwestern
15 Bell. If, however, we dispatch a technician and
16 the complaint from the CLEC, the trouble report
17 is they can't transmit at a certain speed, or
18 there's some item that would clearly be related
19 to their use of the product or something on the
20 other side of customer demarc, that we should be
21 excluding from the trouble report.
22 MR. SRINIVASA: Is that true even
23 for some of the resale type measures, 35 percent
24 trouble reports that you're still charging
25 Southwestern Bell even though there's no trouble

Page 46

1 found?
2 MR. DYSART: Yeah. If we code
3 this to "no trouble found" in our network, yes,
4 it's included. If we can identify it to CPD
5 equipment, it's charged as CPD code. It's
6 not --
7 MR. SRINIVASA: So that's
8 excluded.
9 MR. DYSART: Correct. But if we
10 don't code it to the CPD, then it's counted in
11 these measurements.
12 MR. SRINIVASA: So, essentially,
13 it's overstating the number of reports.
14 MR. DYSART: Potentially.
15 MR. SRINIVASA: Yes.
16 MR. COWLISHAW: It's my
17 understanding -- and I'll have Ms. Yee correct
18 me if I get it wrong -- we did some limited
19 reconciliation on PM 59 data between AT&T and
20 Southwestern Bell, and at least in the case of
21 our December through February data, found that
22 even if you looked at the data where there had
23 been parity violations reported to AT&T under PM
24 59 and you excluded those transactions that came
25 back "no trouble found," it did not eliminate

Page 47

1 the parity violation.
2 MR. DYSART: I've got one more
3 thing I would like to address to Mr. Cowlshaw's
4 comment, and that's regarding the remedy plan.
5 To clear up one thing, the \$57,000 in December
6 was paid, and so that was taking it off that
7 report. On the Web site was an error. We'll
8 have to add that back in there. And it was -- a
9 question came up how we calculated -- we
10 calculate the Tier 1 damages as required in the
11 T2A. We don't -- or Tier 2 I think you were
12 questioning how we do that, and do we exclude
13 anything because we don't think it's correct.
14 No. We calculate it based upon the measures
15 that show out of parity. It's calculated as the
16 requirements of the T2A. We make it on
17 determination whether we think we should or
18 shouldn't pay it. It's paid if it's out for
19 three consecutive months.
20 The question about Tier 1, why it's so
21 low, in theory, I agree with Mr. Cowlshaw how
22 the process should work, but in fact, the bigger
23 players in the market are not in the T2A
24 currently. And I think that's reflective, and
25 that's the reason the data, the Tier 1 penalties

Page 48

1 are so much less. Since Tier 2 includes all
2 CLEC data, regardless of what type of contract
3 they have, it's capturing the performance of the
4 industry; whereas the Tier 1 captures the
5 performance of the individual CLEC. And that is
6 the one biggest contributors why Tier 1 is not
7 significantly high, and that's because the big
8 players are not involved -- are not in the T2A,
9 excuse me.
10 Some comment was brought up regarding
11 the below 10 no Z value. That was brought up
12 last time in the -- in our meetings on the PMS.
13 And someone said collaborative, and I about
14 choked. But, anyway, that is going to be
15 changed this next month so that everything will
16 show less than 10. But the damage is already
17 being calculated in the Tier 1 level as they're
18 required in the T2A.
19 As far as changing the T2A at this
20 point and changing the penalties and damages, I
21 don't believe that it's a fair time to do that.
22 Since the larger CLECs are not a part of the T2A
23 yet, I don't believe you can make a fair
24 assessment of the penalties and damages and
25 things that are being implied. I think once

Page 49

1 that happens and we've got the majority of the
2 industry in the 2TA or in that Attachment 17 and
3 Tier 1 damages are applicable, then that may be
4 the time to take a look and see -- evaluate that
5 based on Southwestern Bell's performance. But I
6 think what we -- at least from our prospective,
7 the evidence that we've talked about today and I
8 think the improved performance does not indicate
9 that there is a need at this point to shift away
10 from what's currently in place.

11 If you recall, the first CLEC opted in
12 the agreement in October. And from October on,
13 obviously there's been more, but you've got to
14 get the big players to see the impact on Tier 1.
15 And I think as that happens, you will see
16 increased Tier 1 damages, because going into
17 this plan, I -- Southwestern Bell, no matter how
18 good a performance they have, will continually
19 pay some damages monthly. It's part of the
20 plan. You can't have an infinite number of
21 measurements almost that we do today and not
22 expect to have a problem with one.

23 I've told many people in our company
24 that performance measurements wasn't rocket
25 science. Well, since then I've come to believe

Page 50

1 that it's actually more complicated than rocket
2 science because I don't think NASA needed this
3 many performance measurements to send a man to
4 the moon.

5 So it's really a difficult process, and
6 I think it's too early to try to change anything
7 in the T2A. And I would --

8 MS. BOURIANOFF: Donna, can I
9 address one comment, and I don't want to get
10 into the specifics, but I want to ask one
11 comment that both Mr. Horn and Mr. Dysart kept
12 making.

13 MS. NELSON: Okay. Very briefly.

14 MS. BOURIANOFF: I will. This is
15 Michelle Bourianoff on behalf of AT&T. AT&T
16 notified Southwestern Bell, not on just April
17 17th of our intent to opt into Attachment 17,
18 but back in the beginning of February, almost
19 three months ago. The reason that has not been
20 successful is that there are outstanding issues
21 between our company unrelated to Attachment 17
22 that we weren't able to resolve in negotiation
23 and we're having to take to the Commission for
24 arbitration. So we're still under our existing
25 interconnection agreement through the extension

Page 51

1 period. But we have notified Southwestern Bell
2 of our intent for over three months to opt into
3 Attachment 17, which is one of the reasons that
4 we're here wanting to address this issue. We
5 have concerns about the way the remedy plan
6 works. We are going to be subject to the remedy
7 plan as soon as our new interconnection
8 agreement gets resolved by the Commission,
9 including the arbitrated parts, and we want to
10 make sure that it's a remedy plan that provides
11 meaningful damages to the CLECs.

12 And with regard to Randy's last crack
13 about NASA not having as many performance
14 measurements sending a man to the moon, we want
15 to make sure they have this many performance
16 measurements to avoid a Challenger kind of
17 experience.

18 MS. NELSON: Okay.

19 MR. DYSART: Well, I don't
20 appreciate the "crack" comment. I thought it
21 was a very good statement.

22 MS. NELSON: Okay. I guess, at
23 this point, we would be interested in hearing
24 from other CLECs.

25 MR. WAKEFIELD: Thank you, Your

Page 52

1 Honor. Jason Wakefield for MCI WorldCom. And
2 I'll -- just deferring my experts on the
3 specifics on the remedy proposal, we had
4 understood from other venues that Southwestern
5 Bell was interested in discussing some of the
6 concerns that we had with the remedy plan. In
7 this forum, what I'm hearing is they're not, and
8 if that's the case, then for purposes of our
9 discussions, I guess it makes the remedy plans
10 discussions quite short.

11 The other thing I would note, unless
12 y'all are --

13 MS. NELSON: Before you move on to
14 that, I don't think Mr. Horn was saying that.
15 That's not what I heard. What I heard him
16 say -- and maybe I'm drawing parallels that
17 aren't there -- was if you want to stick by the
18 90 percent over here, then let's stick by what
19 the performance remedy plans were meant to
20 review. But I don't think they were foreclosing
21 discussing options.

22 MR. HORN: Correct. It was not
23 and attempt to close down what we were about
24 over the next three days.

25 MR. WAKEFIELD: My apologizes.

Page 53

1 And I'm drawing the distinction between the
2 performance measure and the plan in the remedy
3 section. There's the two different parts. My
4 understanding is that Southwestern Bell is more
5 than agreeable to discuss the measurements, the
6 benchmarks, what is appropriate for the in and
7 out of the measurements and the benchmark. But
8 what I heard from Mr. Dysart was with regard to
9 specifics of the remedy plan, that this was not
10 the time to discuss it. So I would just be
11 interested in any kind of clarification on that.

12 MR. DYSART: Well -- this is Randy
13 Dysart. Well, I'm not real interested in
14 discussing it, but my point -- really, my point
15 was that I don't believe that it's time to do
16 that yet. And I didn't mean to imply that AT&T
17 didn't want to be in the 2TA, but currently
18 there's data that's not in the Tier 1
19 performance. So I just think it's premature to
20 do that. That doesn't mean that I'm saying I
21 won't discuss or anything else, because that's
22 not my decision.

23 MS. NELSON: And I guess what
24 specifically staff would be interested in
25 hearing about, and I'm speaking for myself here

Page 54

1 and not everybody, is that remedial plan option
2 that AT&T raised, and I'd like to hear from
3 other CLECs and from Southwestern Bell on
4 whether they're amenable to even discussing
5 that.

6 MR. SRINIVASA: Let me state
7 something on that same concept. Rather than
8 sticking to the 90 percent, essentially what
9 we've done also is to look at the route cause of
10 why these things are happening. I believe what
11 I understand from the remedial plan option is
12 something similar to the route cause analysis of
13 why certain performance is not, you know -- for
14 example, if you're missing it consecutively for
15 two or three months. My take on what AT&T is
16 suggesting is not just in Tier 2, this should be
17 done even at Tier 1 level with individual CLECs,
18 those who have opted into that. Say, for
19 example, you pay damages for two months and
20 they're all for the same measure, maybe you need
21 to discuss with them to see why that is
22 happening. Is that what your understanding is?

23 MR. DYSART: This is Randy Dysart.
24 I think -- knowing what the AT&T contract says,
25 I think that's basically what it is, is more of

Page 55

1 a route cause. You know, I think we're
2 agreeable to discuss that. I think it, to me,
3 if you -- I would want some sort of -- I
4 wouldn't want to do it, you know, every first
5 occurrence, bam, I'm doing a remedial plan,
6 because the way analysis works is you need to
7 focus on the things that are -- that become a
8 little more serious. You would expect to miss a
9 measurement here and there. And to investigate
10 on one occurrence, I would be tying up a lot of
11 resources that -- that they may be back in
12 parity the next month. So I think there needs
13 to be more controls around that, but I think
14 we're willing to discuss that.

15 MR. SRINIVASA: Say, for example,
16 for any one measure, you know, that you miss it
17 but for two or three, four months consecutively
18 subject to K exemption so therefore there's no
19 damage. Should you be doing some sort of route
20 cause analysis on that?

21 MR. DYSART: Well, internally we
22 are doing route cause analysis. We're not going
23 to let a measurement be out of parity for an
24 extensive period of time. Now, to measure it by
25 CLEC to CLEC, we've got 200 and some odd CLECs,

Page 56

1 you're not going to want to spend a lot of time
2 with each individual CLEC for the simple reason
3 that the processes are set up to operate as an
4 industry. So all CLECs together is kind of what
5 we would look at, more of a Tier 2 level but you
6 might want to report after two months, or
7 something like that. That seems to be more
8 practical than taking the remedial plan for
9 every CLEC for a couple of occurrences when the
10 rest of the industry may be in line, because our
11 processes aren't set up CLEC to CLEC. They're
12 set up as a CLEC as a whole.

13 So I think there's discussion around
14 that. I mean, we're more than willing to
15 participate in that and try to come up with
16 something. But, I mean, we just have to
17 recognize the resource training that --

18 MR. SRINIVASA: Go ahead.

19 MR. WAKEFIELD: And just so I
20 understand, the scope of this workshop with
21 Southwestern Bell is going to discuss the
22 purposes of this workshop. We have made
23 specific suggestions about, for example, the per
24 occurrence amounts, or the intermediate caps, in
25 other words, the per measurement caps or the per

Page 57

1 occurrence caps for a particular measurement.
2 Are those issues considered by Southwestern Bell
3 to be outside of the scope of this workshop?
4 And if it is, then at least we know for purposes
5 of our comments what's inside and outside of the
6 scope.

7 MR. DYSART: Well, this is Randy
8 Dysart. I guess what I would hope to get out of
9 the workshop, which I think it's going to take a
10 while just to do this, is let's get the
11 performance measurements set the way they need
12 to be set, the business rules. And, you know, I
13 think we're on certain measurements making --
14 moving them into a Tier 1 or Tier 2. I think
15 that is appropriate potentially, but as far as
16 changing cap amounts and changing the actual
17 remedy plan, I believe it's out of the scope,
18 but again, that's really staff. And if you're
19 asking me in my opinion, I think it's out of the
20 scope. And if I was over there, that's probably
21 what I'd rule, but --

22 (Laughter)

23 MR. WAKEFIELD: And just one other
24 additional issue is MCI WorldCom's current
25 position in terms of arbitration is we have

Page 58

1 proposed the language of Attachment 17 in the
2 MFS/Southwestern Bell arbitration. I don't
3 believe that particular attachment is a
4 contested issue in the arbitration. So once the
5 Commission approves an award in that
6 arbitration, MFS will be in the Attachment 17.
7 And we are hopeful that any changes that come
8 out of this workshop and out of subsequent
9 workshops would be incorporated into an
10 Attachment 17.

11 MS. NELSON: Boy, that was several
12 steps back in the merger history.

13 MR. SIEGEL: Howard Siegel, IP
14 Communications. Consistent with a disclosure I
15 made a while back to avoid any appearance of
16 conflict, I'm not going to speak substantively
17 on these issues because it has more historical
18 impact as opposed to respective measures, but
19 procedurally I wanted to add based on
20 Mr. Dysart's suggestion of possibly excluding
21 DSL related measures for purposes of calculating
22 percentages, that today's meeting was not
23 noticed as a DSL meeting and that there are a
24 number of DSL providers such as Rhythms, Covad,
25 NorthPoint, even a representative from my

Page 59

1 company that would like to address it. That if
2 the staff does want to consider that as an
3 option of analysis, it might be good to bring
4 that up on the 3rd.

5 MS. NELSON: Okay. Thank you.

6 MS. HARTLINE: Rina Hartline for
7 Birch Telecom. And I, of course, won't be doing
8 the talking on the specifics. T.J. Sauder will.
9 But we are a party to the T2A, and it is
10 certainly important to us to ensure that the
11 relevant performance is being captured by the
12 measurements and the remedy plan is compensating
13 the appropriate parties appropriately.

14 In order to come to these workshops
15 prepared and have something meaningful to say,
16 just like Randy said, we needed to get into the
17 data, get dirty with the details. We have tried
18 to request our performance measurement data in
19 order to investigate them and come here with
20 some meaningful insight. We have been unable to
21 get our data despite repeated requests. So I
22 think that at this point we have a limited -- a
23 very limited number of data on a very limited
24 number of measurements, but this is -- I mean,
25 we have requested this data for over a month.

Page 60

1 So, I mean, we're a bit handicapped.

2 MS. NELSON: I'm assuming you're
3 referring to the underlying data.

4 MS. HARTLINE: Yes. That's
5 correct.

6 MS. NELSON: Okay. Southwestern
7 Bell, do you want to respond to that?

8 MR. DYSART: This is Randy Dysart,
9 Southwestern Bell. I'll have to investigate. I
10 don't -- I thought the last time I talked with
11 Ms. Hartline that issue was taken care of, but
12 obviously it wasn't. So I guess --

13 MS. NELSON: Okay. Could you find
14 out and report back?

15 MR. DYSART: I sure can.

16 MS. HARTLINE: Thank you.

17 MS. NELSON: Okay. Let's take --
18 yes, Ms. Krabill.

19 MS. KRABILL: This is Nancy
20 Krabill with NEXTLINK. We too are a proud party
21 to the T2A. And we've had the same issue with
22 receiving raw data from Southwestern Bell. We
23 began asking for it on January 10th, and as late
24 as late March, we're told that Southwestern Bell
25 didn't really have resources allocated to go

Page 61

1 over raw data with CLECs. That was reversed in
2 a workshop that was held a couple of weeks ago,
3 but we still have not received our raw data. So
4 that's one issue. But I love the idea of
5 getting some sort of postremedial plan in place.
6 And it wouldn't have to be CLEC-specific. We
7 can use the example of the SOAC failure that
8 caused the problems in the conversions in
9 February. Although NEXTLINK and I'm sure other
10 CLECs were informed informally as our customers
11 were going down what was going on, we never
12 received actual, official notification of what
13 the source of the problem was, and then what was
14 the route cause put into place.

15 I'm very interested in Southwestern
16 Bell's performance improvements teams and look
17 forward to working with them in the future. We
18 use the data or intend to to analyze our own
19 problems internally and how we would work at
20 interfacing with Southwestern Bell. We look at
21 them as a supplier. And without the underlying
22 data, it's very difficult to understand what's
23 going on in the numbers. So we would very much
24 appreciate the remedial plan.

25 MR. DYSART: I want to make one

Page 62

1 comment on raw data, only one. We have
2 dedicated an entire director group who is trying
3 to staff up now just to handle the issue of raw
4 data, because it's just not NEXTLINK, it's just
5 not Birch. There's a lot of people wanting it.
6 So one whole directors group with 11 people are
7 going to be working on raw data. So it will --
8 the ability to get the raw data will improve.

9 And once we have this meeting about
10 discussing formats, I think things will be
11 remarkably improved, but --

12 And I don't know the status of your raw
13 data. I wasn't aware that you didn't have it.
14 I was aware that you had a problem with maybe
15 reading it, but I'll check into that also.

16 MS. NELSON: Has that meeting been
17 set, or did we determine at the end of one
18 session that it wasn't really necessary
19 because --

20 MR. DYSART: This is Randy Dysart.
21 I heard that, but I'm not sure if we determined
22 that there was or wasn't, but we're still
23 willing to participate if it's required.

24 MS. NELSON: Okay. Could the
25 parties discuss that off-line sometime today and

Page 63

1 let us know if and when a meeting will be held
2 so that other CLECs can be notified?

3 Let's take a 10-minute break right now,
4 and we'll come back and we'll hear from other
5 CLECs as to performance remedy plan issues, and
6 then we'll go ahead and move onto the other
7 performance measures. Off the record.

8 (Recess: 11:24 a.m. to 11:45 a.m.)

9 MS. NELSON: Let's go back on the
10 record. Did other CLECs have comments as to the
11 issues discussed this morning with regard to the
12 performance remedy plan?

13 MS. EMCH: This is Marsha Emch
14 with MCI WorldCom, and I just wanted to make a
15 few points outside of the 271 issue but looking
16 at a remedy plan that we would need as we're
17 going into business. And a few points. I'll
18 make this brief. One, that we look at the New
19 York plan that is imposed upon Bell Atlantic,
20 and it's at the aggregate industry level. And I
21 understand that they have recently paid
22 approximately \$20 million in remedy payments.
23 And then we look at Southwestern Bell's remedy
24 payments, once again looking at the aggregate
25 industry, and we're seeing Southwestern Bell

Page 64

1 paying \$900,000 approximately. It just raises
2 some issues, some questions.

3 The immediate one to me is, well,
4 Southwestern Bell's performance must be really,
5 really good to not even have approached the
6 million-dollar mark. But as we hear from Pat
7 and the reporting data here, you know, we're
8 seeing that, you know, it's -- at the best, it's
9 at the 86 percentage point range.

10 It also raises concerns, well, maybe
11 the quote, unquote lack of remedy payments are
12 due to some loophole, some leniencies that MCI
13 WorldCom has repeatedly brought up in the past,
14 be those, you know, the benchmarks, the K value
15 tables, the caps. Those are certainly issues
16 that I understand from Southwestern Bell
17 earlier, perhaps, are not being addressed here,
18 but MCI WorldCom certainly raises these
19 concerns, these issues that are not in the New
20 York remedy plan.

21 MCI is not a party to Attachment 17.
22 We -- as my attorney talked about earlier, we do
23 plan to adopt it and would like to have that,
24 you know, today if possible, but that is not --
25 you know, until the entire interconnection

Page 65

1 agreement, you know, becomes approved by the
2 Commission, that's not going to happen;
3 therefore, our performance data that we look at
4 today, most of the reporting on the performance
5 shows a base less than 30 data points.

6 Therefore, for the overwhelming
7 majority of our measures, we see nothing to
8 determine are we getting parity. You know,
9 there's no Z value there. I understand Randy
10 earlier made comments that they are going to
11 change this so that Z values would be shown for
12 less than 10. But I guess my question is, I'm
13 assuming that is only for those CLECs who have
14 Attachment 17; therefore, MCI WorldCom, as
15 we're -- you know, many of the measures, we
16 don't have 30 data points. Yes, our -- you
17 know, our market entry is increasing, and that
18 may change, but it doesn't appear to me like in
19 the interim we're still going to have this 30
20 data points for each measure until they're
21 shown.

22 MR. DYSART: This is Randy Dysart.
23 We'll do that. We'll show it less than 10, the
24 Z value.

25 MS. EMCH: For MCI as well?

Page 66

1 MR. DYSART: Sure. No problem.

2 MS. EMCH: Thank you. That would
3 be great. I just want to write that down.

4 MR. DYSART: Now, we won't
5 calculate damages on that, but I'll be more than
6 happy to provide the --

7 MR. SRINIVASA: Let me -- you're
8 going to show Z values for less than 10? Are
9 you going to use permutation to capture it? How
10 are you going to --

11 MR. DYSART: This is Randy Dysart.
12 We may use the permutation test, particularly
13 for percentages less than 10, but we'll show
14 some sort of value there for less than 10.

15 MS. EMCH: And that would be
16 great, because as -- if we can see these, you
17 know, performance less than 10, we will now have
18 some data to look at to compare. Right now
19 we're looking at the aggregate CLEC data to make
20 our assumptions. So MCI WorldCom thanks
21 Southwestern Bell tremendously on that. It
22 would help us.

23 MR. SRINIVASA: Let me ask you
24 this: In the interim that you show Z values
25 using permutation methodology, you know, for

Page 67

1 measures which have less than 10 data points,
2 are you still going to exclude them from the K
3 exemptions?

4 MR. DYSART: This is Randy Dysart
5 with Southwestern Bell. We'll do the
6 progression as it is in the T2A. I think in the
7 T2A, yeah, we would still exclude them from that
8 measurement. That won't change. It's just a
9 matter of reflecting -- because all the parties
10 seem to want to see the Z value or the
11 permutation value, whichever the case, that's
12 not a problem. In fact, after last meeting I
13 already instructed my folks to go ahead and
14 start doing that. And we'll just change the way
15 we do the exclusion through the K value just
16 based on the sample instead of -- right now
17 we've been keying it off of a base less than 10.
18 Those haven't been included. But that's not a
19 problem. We'll take care of that.

20 MS. EMCH: But your point is
21 certainly well taken. There are still other --
22 I mean, that will show -- showing the Z values
23 less than 10 -- or in 30, as in our case -- that
24 will certainly show us the data. We still have
25 concerns regarding the remedy structure K

Page 68

1 values, the test that hasn't gone away.

2 Two other points I would want to make.
3 Southwestern Bell I know has talked about line
4 sharing and some DSL performance measures that
5 haven't been addressed earlier. And MCI
6 WorldCom, too, is anxious, you know, to be
7 continuing to discuss these. We're going to be
8 doing it again on Wednesday.

9 Southwestern Bell talks about process
10 improvement teams and other initiatives that I
11 know are going on in May to improve their
12 performance. We have concerns that these
13 processes -- are they being analyzed outside of
14 Southwestern Bell? Do we have -- we as a CLEC
15 have access into -- or as a third party tester
16 or whatever range? You know, is this -- if it's
17 a process totally controlled by Southwestern
18 Bell, how will we understand if the processes
19 are being put forth fairly?

20 We would definitely want to see how the
21 performance measures will change. You know,
22 we're expecting to see performance improve
23 dramatically in these next months, as
24 Southwestern Bell has talked about hiring new
25 people to -- you know, new training, new people

Page 69

1 to work on the orders. We're anxious to see
2 that, but we have concerns. You know, will the
3 performance improve, and will the measures be
4 properly captured?
5 And my last point was in addressing
6 Southwestern Bell's attorney who spoke up
7 regarding the section in Attachment 17 that
8 talks about reducing the performance measures by
9 50 percent. There's two more key points to that
10 statement. It is by 50 percent reduction is
11 what the Commission is intending within two
12 years after 271 approval. And as we all know,
13 Southwestern Bell has not seen that approval.
14 So talking about reducing measures at all during
15 the six-month review does not seem appropriate
16 to me, since the 271 approval has not been
17 captured.
18 The second part of that bullet also
19 says reducing them if in fact the performance
20 can be captured by a smaller set of numbers, you
21 know, for any customer-affecting and
22 competition-affecting performance. MCI WorldCom
23 tomorrow will be introducing three new
24 additional measures that as we've just entered
25 the market on a more robust level, we have found

Page 70

1 problems, specifically with LIDB updates, LIDB
2 access -- the LIDB is L-I-D-B line information
3 database -- and as well as percent of orders
4 which error out in billing in lieu of the fact
5 that Southwestern Bell does not issue billing
6 completion notices at this time.
7 MS. NELSON: Could you get those
8 measure -- proposed measurements to the parties
9 today so that they can look at them ahead of
10 time?
11 MS. EMCH: I will do -- I will at
12 lunch make copies.
13 MS. NELSON: Okay. Are there any
14 other CLECs that want to discuss the performance
15 remedy plan?
16 MR. KAGELE: Your Honor, I just
17 have a clarifying question. Tim Kagele, Time
18 Warner Telecom. Time Warner recently has also
19 become a party to the T2A agreement, effective
20 April of 2000. And I just wonder if it might be
21 appropriate, besides Birch and NEXTLINK, to get
22 a feel for CLECs that have become a party to the
23 T2A. And if you haven't, why, and what reasons
24 are preventing the opting in of Attachment 17.
25 So are there other CLECs here that are

Page 71

1 a party to the T2A?
2 UNIDENTIFIED SPEAKER: I'm from
3 Network Intelligence. We're a party to that.
4 MR. KAGELE: The total CLECs
5 operating in the Texas market, do we know
6 generally how many have opted into the T2A?
7 UNIDENTIFIED SPEAKER: There's
8 over 80 CLECs that have opted into the T2A.
9 MR. KAGELE: Out of how many?
10 MR. DYSART: A couple hundred
11 CLECs that we have data, I think, approximately.
12 MR. KAGELE: Thank you.
13 MS. NELSON: Okay. Any other
14 CLECs? If not, we're -- oh, yes, Mr. Cowlshaw?
15 MR. COWLISHAW: Three points to
16 close for us. Randy spoke a lot in his remarks
17 in terms of Southwestern Bell's commitment to
18 get good data, to get good results. And I don't
19 have any doubt about Randy Dysart's commitment
20 to do a good job with his performance measures.
21 But part of why anyone would adopt a test like
22 the objective 90 percent Tier 2 test and part of
23 why the FCC has talked about having these
24 measurements in this data in the first place is
25 to get us away from having an exchange of, well,

Page 72

1 gee, this is AT&T's experience and this is
2 Mpower's experience and this is Time Warner's
3 experience, and then when Southwestern Bell
4 says, "This is how we" -- "but we see it this
5 way," and then we have what turns into a vote
6 about whether there's -- somebody's proceeding
7 with good intentions. And that's -- the
8 measurement gives us a chance to set something
9 objective that we can look to. And we set one
10 test, and, yeah, it was a year ago we set the
11 test, but we'd like to see the test met.
12 Second --
13 MS. NELSON: So at some point are
14 we going to get away from the he said, she said?
15 MR. COWLISHAW: I didn't -- I
16 don't think I said he said or she said this
17 morning.
18 MS. NELSON: Just curious.
19 MR. COWLISHAW: I think the -- the
20 idea of the data is to get us away from the he
21 said, she said. And that doesn't mean you don't
22 look at what the numbers mean or what some
23 explanation for some of the numbers might mean,
24 but it does mean you try and get to a more
25 objective report card. And -- you know, and

Page 73

1 sometimes you fail the report card.
2 Second, there's no question that there
3 is some better data in -- reported in the March
4 results. For some of the measures -- for
5 example, Randy talked about LEX flow-through,
6 reported passing after many months of not
7 passing and billing completeness, I believe,
8 reported passing for many months of reported
9 parity violations.
10 Again, part of why you have a two out
11 of three-month test is to recognize that where
12 we've had a long time of underperformance, one
13 month of good news is good, but nobody would
14 suggest that you can draw a trend line from
15 what's happened on one month in some contrast to
16 what's gone on versus staying time before. And
17 so you'd want to see some continued performance
18 in that direction before you reached any
19 conclusions from it.
20 Lastly, the comment is made that when
21 these measures got created, people didn't maybe
22 have in mind the DSL was going to be a big
23 service. But what -- I think it's right that
24 when these measures got created, you know, we
25 didn't know which of these measures would prove

Page 74

1 to be terribly important. I mean, we've got
2 measures for subtending trunks. We've got
3 measures for resold special services, a lot of
4 which have never shown up with any data in them.
5 No one knew which of these measures was going to
6 prove to be important. That's part of why so
7 much effort went into trying to cast them that
8 broadly. And maybe we will over time be able to
9 pull it back.
10 But we can't think about applying or
11 looking at the objective tests we set to measure
12 whether the performance was good enough to
13 conclude the market was open and propose to
14 exclude from that analysis the service that has
15 proved to be the single most competitively
16 interesting and attractive service to CLECs, the
17 service that Southwestern Bell is putting an
18 enormous investment into its Project Pronto to
19 say, well, let's look at the data and say we
20 passed the 90 percent test if we just leave out
21 DSL. That really seems like not the right way
22 to go about the inquiry.
23 MR. DYSART: Since Pat had a last
24 comment, I guess I'll give it one last shot.
25 But I appreciate the opportunity. I think I'd

Page 75

1 like to hit at least on the last comment about
2 the DSL. I wasn't suggesting that at the time
3 nobody knew DSL was important. What I was
4 suggesting is that I think we made some
5 decisions based upon limited knowledge of what
6 the DSL product was going to be as well as the
7 idea itself. And I think what we've got here is
8 a situation where we have maybe some
9 inappropriate comparisons. We have a situation
10 where CLECs have a standard interval that
11 Southwestern Bell currently bases their offering
12 to their customers based on load and CLEC -- and
13 technician availability.
14 So there's some inherent
15 apples-to-oranges comparisons that we have that
16 I think that these proceedings and the six-month
17 review are trying to resolve those. And I'm not
18 suggesting at the time we didn't think DSL was
19 going to be unimportant. I don't think that's
20 true. I just think we based a lot of the DSL
21 measurements at the time on limited information.
22 More has come out during the arbitration, and
23 now we have an opportunity with the data CLECs
24 that will be here in the next couple of days to
25 refine those measurements such that now we're

Page 76

1 going to get a better comparison, a better idea
2 of really the value of that service, because I
3 contend that our performance on DSL, given the
4 disparity, is good. I think it is good, and I
5 think we're operating under some conditions that
6 we didn't contemplate in the development.
7 MR. SRINIVASA: Let me ask you
8 something. Mr. Cowlshaw mentioned something
9 that just because you -- the example that was
10 given for the LEX measurement, that in March
11 there was a dramatic improvement. Just because
12 it improved in one month, you can't say that's
13 going to be the trend, just like you try to
14 explain why a performance measure did not meet.
15 If you improve the performance measure, it's not
16 a fluke. Is there some sort of process
17 improvement that took place? Is that why that
18 improved?
19 MR. DYSART: Well, I think we're
20 consistently trying to look at the measurements
21 and trying to prove. And I would agree that one
22 month does not make -- you can't hang your hat
23 on one month, just like I can't hang my -- they
24 shouldn't hang their hat on one month of poor
25 performance.

Page 77

1 What I was trying to indicate from that
2 is -- you know, the accusation here, from my
3 standpoint, is you're backsliding. Well, if a
4 person or a company is backsliding, my
5 contention is you wouldn't see these kind of
6 improvements, these significant of changes.
7 Now, the proof is next -- is in April
8 data. I totally agree. You can't continue --
9 if we go back to the other way, then we haven't
10 sustained the gains we had before. But the
11 point I was trying to make is here's all these
12 improvements. You know, there's a commitment
13 there to make improvements, and we have to -- we
14 have to sustain those improvements. But I can't
15 argue a thing when it says it's important to
16 look at the next month of data.
17 MR. SRINIVASA: What I was trying
18 to find out is those improvements occurred
19 because there was some process changes, and also
20 you added more personnel to --
21 MR. DYSART: I don't believe
22 the -- adding personnel helped our flow-through
23 measurement. And to be honest, I'm not sure
24 exactly what improved LEX. I mean, I hope it
25 continues. We've got folks here that maybe will

Page 78

1 address that later. But I think billing
2 completeness is one that they -- they have
3 dedicated people to look at that on a monthly --
4 month-to-month basis, and they really take focus
5 on it. And one thing you find when you measure
6 things is people focus on it. And just
7 measuring something would sustain some
8 improvement.
9 MR. BERRINGER: Your Honor, John
10 Berringer with Southwestern Bell. The selective
11 exclusions on March data on the part of AT&T
12 speak volumes, as well as the selective
13 inclusions that occurred on particular measures.
14 While I agree with Randy that one month does not
15 a trend make, being personally involved with it,
16 myself and Mr. Locus and many people in the room
17 know that the performance changes, they're going
18 on behind the scenes, whether it be personnel
19 additions, process change, training, system
20 updates. There are many. And the (inaudible)
21 that occurred, we are starting to see definable,
22 demonstrable progress in the measures, that it's
23 real unsustainable and can't be characterized as
24 a lack of data integrity as has been done before
25 or dismissed as a fluke or a one-time thing.

Page 79

1 And I agree with Randy that the April
2 data will bear that out. This is no accident
3 that March has improved, and I think it's a
4 continued demonstration because of the
5 meaningful opportunity to compete that has
6 already occurred and that the fact that we've
7 opened the market to competition.
8 MR. COWLISHAW: I'd just say in
9 response to that, I mean, I thought Mr. Dysart
10 had earlier on essentially agreed that the
11 numbers I presented were fair, and if there's
12 some numbers that are missing from the charts
13 that were displayed here today, I'd be glad for
14 the gentleman to point them out. But I believe
15 they are accurately taken from the Web site, and
16 if there's a problem with the numbers that have
17 been presented here, it's because they've been
18 pulled from the Southwestern Bell CLEC Web site.
19 In response to Randy on one point, this
20 DSL comparison is indeed important. And Randy
21 suggests that we don't have apples-to-apples
22 comparisons in the DSL area and points in
23 particular to CLEC missed due date rates that
24 are attributable to a lack of facilities because
25 CLECs are ordering second lines, where

Page 80

1 Southwestern Bell is reporting its own missed
2 due dates based on its line sharing with itself.
3 I mean, it's just important to think about why
4 that is. And it's not because CLECs have chosen
5 to defer doing line sharing until May of 2000.
6 If Southwestern Bell's policy positions
7 hadn't gotten in the way of development of
8 access to line sharing, such that CLECs would
9 have been doing this over the last several
10 months, we might know whether CLECs have a fair
11 opportunity to compete in the area of providing
12 DSL service over DSL-capable loops. But --
13 MR. SRINIVASA: Let me ask you
14 something. For example, you know, what we --
15 what wasn't contemplated at the time we were
16 setting up the performance measure was that
17 CLECs would be using BRI loops for IDSL. We've
18 set up measurement for the BRI loops. BRI loops
19 were for the provision of ISDN service. Now,
20 when ISD -- IDSLs, they started using it, that
21 was something -- a process that was not
22 contemplated. Would you --
23 MR. COWLISHAW: I don't disagree
24 with that if we're talking about when we set up
25 the measures in the 1997 mega-arb. And my